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105TH CONGRESS
1ST SESSION

H. R. 406

To establish the Independent Commission on Medicare to make recommendations on how to best match the structure of the Medicare program with the funding made available for the program by Congress, to provide for expedited consideration in Congress of the Commission's recommendations, and to establish a default process for meeting Congressional spending targets for the Medicare program if Congress rejects the Commission's recommendations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1997

Mr. ENGLISH of Pennsylvania (for himself, Mr. MCHALE, Mr. SAXTON, Mr. CANADY of Florida, Mr. GRAHAM, Mr. EHLERS, and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Independent Commission on Medicare to make recommendations on how to best match the structure of the Medicare program with the funding made available for the program by Congress, to provide for expedited consideration in Congress of the Commission's recommendations, and to establish a default process for meeting Congressional spending targets for the Medicare program if Congress rejects the Commission's recommendations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commission to Save
5 Medicare Act of 1997”.

6 **TITLE I—INDEPENDENT
7 COMMISSION ON MEDICARE**

8 **SEC. 101. ESTABLISHMENT OF COMMISSION.**

9 (a) IN GENERAL.—There is established a commission
10 to be known as the Independent Commission on Medicare
11 (hereinafter in this Act referred to as the “Commission”).

12 (b) MEMBERSHIP.—

13 (1) COMPOSITION.—The Commission shall be
14 composed of 7 members appointed by the President,
15 by and with the advice and consent of the Senate.

16 (2) CHAIR.—The President shall designate one
17 of the members to chair the Commission.

18 (3) QUALIFICATIONS.—The membership of the
19 Commission shall consist of individuals with national
20 recognition for expertise in fields related to health
21 care.

22 (c) TERMS.—

23 (1) IN GENERAL.—Except as provided in para-
24 graphs (2) and (3), each member of the Commission
25 shall be appointed for a term of 9 years.

1 (2) TERMS OF INITIAL APPOINTMENT.—As des-
2 ignated by the President at the time of appointment,
3 of the members first appointed—

4 (A) 3 shall be appointed for a term of 3
5 years; and

6 (B) 3 shall be appointed for a term of 6
7 years.

8 (3) VACANCIES.—Any member appointed to fill
9 a vacancy occurring before the expiration of the
10 term for which the member's predecessor was ap-
11 pointed shall be appointed only for the remainder of
12 that term. A vacancy in the Commission shall not
13 affect its powers, but shall be filled in the manner
14 in which the original appointment was made.

15 (4) EXCLUSIVE EMPLOYMENT.—During the
16 term of appointment, members shall serve as em-
17 ployees of the Federal Government and shall hold no
18 other employment.

19 (5) COMPENSATION OF MEMBERS.—Each mem-
20 ber of the Commission (other than the chair) shall
21 receive an annual salary at the annual rate payable
22 from time to time for level IV of the Executive
23 Schedule. The chair of the Commission, during the
24 period of service as chair, shall receive an annual

1 salary at the annual rate payable from time to time
2 for level III of the Executive Schedule.

3 (6) REMOVAL.—A member of the Commission
4 may be removed by the President only for neglect of
5 duty or malfeasance in office.

6 (d) MEETINGS.—Each meeting of the Commission
7 shall be open to the public, except that the Commission
8 may meet in executive session to address matters relating
9 to personnel and other internal matters of the Commission
10 unrelated to the duties specified in section 102.

11 (e) STAFF.—

12 (1) IN GENERAL.—The Commission shall ap-
13 point a Director, who shall be paid at a rate the
14 Commission considers appropriate. The Director
15 may appoint and fix the pay of such additional per-
16 sonnel as the Director (with the approval of the
17 Chair of the Commission) considers appropriate,
18 without regard to provisions of title 5, United States
19 Code, governing appointments in the competitive
20 service.

21 (2) EXPERTS AND CONSULTANTS.—The Com-
22 mission may procure temporary and intermittent
23 services under section 3109(b) of title 5, United
24 States Code.

(3) STAFF OF FEDERAL AGENCIES.—Upon request of the Director, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) POWERS.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out its duties under this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

1 (4) GIFTS, BEQUESTS, AND DEVISES.—The
2 Commission may accept, use, and dispose of gifts,
3 bequests, or devises of services or property, both real
4 and personal, for the purpose of aiding or facilitat-
5 ing the work of the Commission. Gifts, bequests, or
6 devises of money and proceeds from sales of other
7 property received as gifts, bequests, or devises shall
8 be deposited in the Treasury and shall be available
9 for disbursement upon order of the Chair of the
10 Commission.

11 (5) MAIIS.—The Commission may use the
12 United States mails in the same manner and under
13 the same conditions as other departments and agen-
14 cies of the United States.

15 (6) ADMINISTRATIVE SUPPORT SERVICES.—
16 Upon the request of the Commission, the Adminis-
17 trator of General Services shall provide to the Com-
18 mission, on a reimbursable basis, the administrative
19 support services necessary for the Commission to
20 carry out its duties under this Act.

21 **SEC. 102. DUTIES OF THE COMMISSION.**

22 (a) IN GENERAL.—The Commission shall—

23 (1) transmit to Congress and the President
24 during December of each year (beginning with 1997)

1 a report on the aspects of the Medicare program
2 specified in subsection (b); and

3 (2) transmit to Congress during July of each
4 year (beginning with 1998) a report containing spe-
5 cific recommendations on the matters specified in
6 subsection (c).

7 (b) ASPECTS OF MEDICARE.—

8 (1) IN GENERAL.—The report transmitted pur-
9 suant to subsection (a)(1) during December of a
10 year shall include information on the following:

11 (A) The total outlays made under the med-
12 icare program for each of the 10 most recently
13 completed fiscal years.

14 (B) Projections of the outlays under such
15 program for the fiscal year beginning on Octo-
16 ber 1 of the next calendar year and each of the
17 4 succeeding fiscal years, on an aggregate and
18 a per capita basis.

19 (C) Projections of the actuarial value of
20 the package of benefits provided to medicare
21 beneficiaries for each of the fiscal years speci-
22 fied in subparagraph (B), on an aggregate and
23 a per capita basis.

24 (D) A comparison of each of the projec-
25 tions made under subparagraph (B) for a fiscal

1 year with the projections made for the year
2 under subparagraph (C).

3 (E) The health status of medicare bene-
4 ficiaries, the access of beneficiaries to health
5 services covered under the medicare program,
6 and the utilization of such services by bene-
7 ficiaries.

8 (F) Methods to improve the methodologies
9 used to determine the payments made under
10 the medicare program to or on behalf of medi-
11 care beneficiaries (including the use of risk ad-
12 justment in the determination of the amount of
13 such payments) and methods to encourage effi-
14 ciency and cost-effectiveness in the delivery of
15 health care services.

16 (G) Such other matters as the Commission
17 determines to be appropriate.

18 (2) ACTUARIAL VALUE DEFINED.—For pur-
19 poses of projecting the actuarial value of the pack-
20 age of benefits provided to medicare beneficiaries
21 under paragraph (1)(C), the Commission shall deter-
22 mine actuarial value by measuring the costs of re-
23 sources used to provide health care services covered
24 under the medicare program and adjusting such
25 costs to take into account—

(A) inflation in the costs of health care services and all costs generally;

(B) demographic changes in the population of beneficiaries, including population growth, age distribution, health status, and access to care;

(C) changes in the mix and intensity of services provided to beneficiaries and the sites at which services are furnished;

10 (D) scientific and technological advances;

(E) the quality of care provided, including the effect on quality of the overutilization of services and other factors;

(F) other factors affecting the demand of beneficiaries for services; and

(G) such other factors as the Commission considers appropriate.

18 (c) RECOMMENDATIONS ON CONTROLLING OUT-

19 LAYS.—The report transmitted to Congress pursuant to
20 subsection (a)(2) during July of a year shall include spe-
21 cific recommendations on changes in the medicare pro-
22 gram, including changes in eligibility, benefits (including
23 the mode of delivery of such benefits), cost-sharing, or
24 payments made to or on behalf of beneficiaries, sufficient
25 to ensure that total outlays for the program for the fiscal

1 year beginning on the following October 1 do not exceed
2 the limit established for that fiscal year under section 201,
3 except that such recommendations may not include
4 changes relating to the payment of payroll taxes for fi-
5 nancing the program.

6 **SEC. 103. EXPEDITED CONGRESSIONAL CONSIDERATION**
7 **OF RECOMMENDATIONS.**

8 (a) IN GENERAL.—The recommendations submitted
9 by the Commission under section 102(c) for a fiscal year
10 shall take effect if a joint resolution (described in sub-
11 section (b)) approving such recommendations is enacted,
12 in accordance with the provisions of subsection (c), before
13 the first day of the fiscal year.

14 (b) JOINT RESOLUTION OF APPROVAL.—A joint res-
15 olution described in this subsection means only a joint res-
16 olution which is introduced within the 10-day period be-
17 ginning on the date on which the Commission submits rec-
18 ommendations under section 102(c) and—

19 (1) which does not have a preamble;
20 (2) the matter after the resolving clause of
21 which is as follows: “That Congress approves the
22 recommendations of the Independent Commission on
23 Medicare concerning methods to control outlays
24 under the medicare program for fiscal year
25 _____, as submitted by the Commission on

1 _____.", the first blank space being filled
2 in with the appropriate fiscal year and the second
3 blank space being filled in with the appropriate date;
4 and

5 (3) the title of which is as follows: "Joint reso-
6 lution approving recommendations of the Independ-
7 ent Commission on Medicare concerning methods to
8 control outlays under the medicare program for fis-
9 cal year _____, as submitted by the Commission
10 on _____.", the first blank space being
11 filled in with the appropriate fiscal year and the sec-
12 ond blank space being filled in with the appropriate
13 date.

14 (c) PROCEDURES FOR CONSIDERATION OF RESOLU-
15 TION OF APPROVAL.—Subject to subsection (d), the provi-
16 sions of section 2908 (other than subsection (a)) of the
17 Defense Base Closure and Realignment Act of 1990 shall
18 apply to the consideration of a joint resolution described
19 in subsection (b) in the same manner as such provisions
20 apply to a joint resolution described in section 2908(a)
21 of such Act.

22 (d) SPECIAL RULES.—For purposes of applying sub-
23 section (c) with respect to such provisions—

24 (1) any reference to the Committee on Armed
25 Services of the House of Representatives shall be

1 deemed a reference to an appropriate Committee of
2 the House of Representatives (specified by the
3 Speaker of the House of Representatives at the time
4 of submission of recommendations by the Commis-
5 sion under section 102(c)) and any reference to the
6 Committee on Armed Services of the Senate shall
7 be deemed a reference to an appropriate Committee
8 of the Senate (specified by the majority leader of
9 the Senate at the time of submission of rec-
10 ommendations by the Commission under section
11 102(c)); and

12 (2) any reference to the date on which the
13 President transmits a report shall be deemed a ref-
14 erence to the date on which the Commission submits
15 recommendations under section 102(c).

16 **SEC. 104. NO TERMINATION OF COMMISSION.**

17 Section 14(a)(2)(B) of the Federal Advisory Commit-
18 tee Act (5 U.S.C. App.; relating to the termination of advi-
19 sory committees) shall not apply to the Commission.

1 **TITLE II—CONTROLLING OUT-**
2 **LAYS UNDER MEDICARE PRO-**
3 **GRAM**

4 **SEC. 201. ESTABLISHMENT OF ANNUAL LIMITS ON OUT-**
5 **LAYS.**

6 Not later than April 15 of each year (beginning with
7 1998), Congress shall in the concurrent resolution on the
8 budget for the fiscal year beginning on the following Octo-
9 ber 1 establish a limit on total outlays to be made under
10 the medicare program for the fiscal year.

11 **SEC. 202. ENFORCEMENT OF LIMITS THROUGH SEQUES-**
12 **TRATION.**

13 (a) IN GENERAL.—Part C of the Balanced Budget
14 and Emergency Deficit Control Act of 1985 (2 U.S.C. 900
15 et seq.) is amended by inserting after section 252 the fol-
16 lowing new section:

17 **“SEC. 252A. SEQUESTRATION WITH RESPECT TO MEDICARE.**

18 “(a) SEQUESTRATION.—If, with respect to a fiscal
19 year (beginning with fiscal year 1999), Congress has not
20 enacted a joint resolution under section 103(b) of the
21 Commission to Save Medicare Act of 1997 before the first
22 day of the fiscal year, there shall be a sequestration to
23 eliminate any budgetary excess in the medicare program
24 as described in subsection (b).

25 “(b) ELIMINATING A BUDGETARY EXCESS.—

1 “(1) IN GENERAL.—Outlays under the medicare
2 program shall be reduced during a fiscal year as
3 provided by paragraph (2), as necessary to eliminate
4 any amount by which estimated outlays under the
5 program in the year exceed the limit for such out-
6 lays established for the year by Congress pursuant
7 to section 201 of the Commission to Save Medicare
8 Act of 1997.

9 “(2) REDUCTIONS DESCRIBED.—In carrying
10 out paragraph (1), the President shall—

11 “(A) reduce payments made under the
12 medicare program by a uniform percentage suf-
13 ficient to reduce 50 percent of the amount de-
14 scribed in paragraph (1); and

15 “(B) increase premiums, deductibles, co-
16 payments, and coinsurance required to be paid
17 under the program by a uniform percentage
18 sufficient to reduce 50 percent of the amount
19 described in paragraph (1).

20 “(c) PART-YEAR APPROPRIATIONS AND OMB ESTI-
21 MATES.—Paragraphs (4) and (7) of section 251(a) shall
22 apply to sequestration of amounts under this section in
23 the same manner as those paragraphs apply to disre-
24 tionary appropriations and sequestrations under that sec-
25 tion.

1 “(d) COORDINATION WITH OTHER SEQUESTRA-
2 TION.—

3 “(1) IN GENERAL.—Reductions under sub-
4 section (b) for a fiscal year shall supersede any re-
5 duction otherwise made under section 252 or 253.

6 “(2) REPORTS.—On the dates specified in sec-
7 tion 254(a), OMB and CBO shall issue preview, up-
8 date, and final reports on medicare sequestration
9 under this section. Such reports shall specify—

10 “(A) the estimated amount described in
11 subsection (b)(1) for the fiscal year;

12 “(B) the estimated uniform percentage de-
13 scribed in subsection (b)(2)(A) of the fiscal
14 year; and

15 “(C) the estimated uniform percentage de-
16 scribed in subsection (b)(2)(B) of the fiscal
17 year.

18 “(3) RULES FOR APPLICATION OF REDUC-
19 TIONS.—The provisions of section 256(d) shall apply
20 to reductions under this section.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 for part C of the Balanced Budget and Emergency Deficit
23 Control Act of 1985 (2 U.S.C. 900 et seq.) is amended



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- 1 by inserting after the item relating to section 252 the fol-
- 2 lowing:

“Sec. 252A. Sequestration with respect to medicare.”.

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